IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.179 OF 2007
IN
WRIT PETITION NO.1695 OF 2000

M/s.Macnair Exports P.Ltd. .. Petitioners
V/s
Union of India & Ors. .. Respondents

Mr.K.R.Chaudhary for Respondents in support.

Mr.V.G.Rege with Mr.Arun V.Bakre for Petitioners to show cause.

CORAM : DR.S.RADHAKRISHNAN, &
SMT.N.N.MHATRE, JJ.

DATE : 28th June, 2007.

P.C.:

1. Heard the learned Counsel for the parties. The learned Counsel for the Respondents who has taken out this Notice of Motion has pointed out that pursuant to our order dated 18.09.2000 passed in the petition while disposing of the said petition, the present Respondents had deposited a sum of Rs.25 lakhs in this Court during the pendency of the Appeal before the CESTAT. It appears that the said amount of Rs.25 lakhs has been invested by the Prothonotary & Senior Master in a Nationalised Bank. It appears that the original Petitioner could not furnish any Bank Guarantee and therefore could not withdraw the said amount. In the meanwhile, the CESTAT finally remanded the matter back to the Commissioner of Customs for fresh adjudication and the Commissioner of Customs by his order dated 28th November, 2006 has adjudicated the matter holding thereby that the goods were liable for confiscation and

imposed fine of Rs.1 Crore in lieu of confiscation as the goods were not available for confiscation. Over and above, the Commissioner of Customs also imposed the penalties totalling to a sum of Rs.85 lakhs. It appears that the original Petitioner has already filed an appeal against the said order in original and the Appeal is pending before the CESTAT.

2. The present Notice of Motion is for a limited relief that as the CESTAT has already decided the matter and the matter went back to the original adjudicating authority and the original adjudicating authority has already adjudicated the same, the present Respondents be allowed to withdraw a sum of Rs.25 lakhs alongwith the accrued interest.

3. Having regard to the facts and circumstances of the case, the Respondents are permitted to withdraw a sum of Rs.25 lakhs alongwith the accrued interest thereon. Accordingly, the Notice of Motion stands disposed of in terms of prayer clauses (a) and (b).

(SMT.N.N.MHATRE, JJ.) **(DR.S.RADHAKRISHNAN,J.)**